

May 21, 2023

Bemidji Township
148 Carr Lake Road SE
Bemidji, MN 56601

Re: 03.01264.00 Farm Animals Response

To The Bemidji Township Zoning Commission

This letter is in response to a letter that was sent to me dated May 16th, 2023, requesting that I remove chickens from my premises. I would like to respond to this Chicken Question with the reasons that keeping chickens on my property is legal and proper.

1. Keeping Chickens at This Property is Currently a Non-conforming Use

The land-use in question was started when it was permitted under township ordinance and chickens have been kept continuously since then. At the time, it was permitted to have up to 50 chickens on a lot size of 2.4 acres. That makes the chickens a non-conforming use, or grandfathered use, that is permitted under Article 11 of the ordinance.

2. The Infringement of Liberty Without Justification or Compensation

The Declaration of Independence states, in part:

...all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men,...

Liberty is defined by Black's Law Dictionary, as required per article 4 of the land-use ordinance for any words not specifically defined in the ordinance, as:

LIBERTY Definition & Legal Meaning
Definition & Citations:

1. Freedom; exemption from extraneous control. The power of the will, in its moral freedom, to follow the dictates of its unrestricted choice, and to direct the external acts of the individual without restraint, coercion, or control from other persons. See *Booth v. Illinois*, 154 U. S. 425, 22 Sup. Ct. 425, 46 L. Ed. 623; *Munn v. Illinois*, 94 U. S. 142. 24 L. Ed. 77; *People v. Warden of City Prison*. 157 N. Y. 116, 51 N. E. 1006. 43 L. R. A. 264, 68 Am. St. Rep. 7i

TLD Example: The liberty and freedom enjoyed by people do not give them the right to infringe upon the liberty and rights of others.

While the courts have found zoning laws to be permissible under federal law, the case *Village of Euclid v. Ambler Realty Co.*, 272 US 365 (1926) stated that it would be unconstitutional if the ordinance was “clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare.” The current ordinance clearly fails this standard for the reasons stated below. However, this should be evidence enough that my God-granted right to liberty permits this land-use, as long as it does not infringe upon my neighbor’s liberty.

The letter provided no evidence that the five chickens are infringing my neighbor’s rights, nor did it offer to compensate me for the continuous loss of eggs, meat, and education of my children, which chickens provide.

3. The Request to Remove Chickens is Arbitrary and Capricious

The request to remove chickens from R1-zoned property is an arbitrary interpretation and enforcement of the ordinance for several reasons.

A. The ordinance does not specifically list chickens as not being allowed.

B. The ordinance is unjust because it bans every use, including gardens, planting trees, removing trees, camp fires, mowing of grass, flagpoles for flying the American flag, children camping in the yard since a tent meets the definition of a building, even simply being present on your own land. An interim use permit for \$500.00 EACH would be required to do any of the things listed, as well as anything else you can think could be done on an individual’s private property. If the ordinance bans literally everything, then any specific land-use can not be singled out as being in violation while others are not.

C. The ordinance has no provision for conditional use permits for R1. Article 8, Section 5 states “An Interim Use Permit is required for anything other than what is permitted above”. So even if a permit were granted, it would be for a limited time and non-transferable.

D. The land-use compliance inspection was not performed during the course of construction of permitted activities, as required by Article 14 of the ordinance and the use of the word “shall”.

E. Other Minnesota municipalities allow chicken husbandry on smaller acreage than this lot. The cities of Bemidji, Minneapolis, St. Paul, as well as dozens of others all permit chickens in some regards. A brief Internet search came up with over 50 in Minnesota. Beekeeping is a similar issue.

4. Conclusion and Requests

Based on this evidence, it is clearly legal for and well within my God-granted right to liberty to keep chickens on my property. Furthermore, the current land-use ordinance is rather ambiguous, to say the least. I’m afraid we were better off under the Bemidji joint powers agreement.

In lieu of the said facts, I find no reason that I should be compelled to surrender my personal property in regards to the Chicken Question.

I make two requests of the township zoning commission and township board:

1. Start work on a new land use ordinance that makes sense for our township. It should only prohibit land-uses that infringe on another's rights while allowing all others. One page should be sufficient.
2. Permit my chickens to continue residing at 4122 Woodberry DR SE.

Thank you for your consideration on this matter, which is of the utmost importance to all township residents.

Jeremy Vogel
4122 Woodberry DR SE
Bemidji, MN 56601
(218) 766-8099

cc: Bemidji Township Board